

Appl. No. : 10/538,225
Filed : February 18, 2006

REMARKS

Claims 1, 11, and 21 have been canceled without prejudice to further prosecution. Claims 2-10, and 12-20 have been amended. New Claims 22-24 have been added. Support for the new claims can be found at least in the originally filed Claims and in paragraphs 101-103 of the published application. Applicant respectfully requests reconsideration of the rejections in light of the amendments and the following remarks. Claims 2-10, 12-20, and 22-24 are currently pending.

Discussion of Oath/Declaration

In the Office Action, the oath or declaration is asserted as being defective for not clearly or legibly identifying the mailing address of each inventor. An application data sheet is filed herewith providing the address of each inventor.

Discussion of Objections to the Figures

In the Office Action, the Figures are asserted as not clearly or legibly indicating the specific components labeled. Figures 1-8 have been amended and clearly and legibly indicate the specific components labeled. No new subject matter has been added. Accordingly, Applicant respectfully requests withdrawal of the objections.

Discussion of Claim Objections

In the Office Action, Claims 10 and 14 are objected to as containing certain informalities. Claims 10 and 14 have been amended according to the Examiner's suggestions. Accordingly, Applicant respectfully requests withdrawal of the objections.

Discussion of Claims Rejected Under 35 U.S.C. § 112 ¶ 2

In the Office Action, Claims 3, 4, 9, 11, 14, and 18 are rejected under 35 U.S.C. § 112 ¶ 2 as being indefinite. Without agreeing to the merits of the rejections, Applicant respectfully submits that each of Claims 3, 4, 9, 11, 14, and 18 has been canceled or has been amended and is definite. Accordingly, Applicant respectfully requests withdrawal of the rejections.

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Discussion of Claims Rejected Under 35 U.S.C. § 101

In the Office Action, Claims 11-20 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Without agreeing to the merits of the rejections, Applicant respectfully submits that independent Claims 11 and 20 have been canceled. Claims 12-19 have been amended to depend from new Claim 23 which is tied to a machine - "the computer." Accordingly, Applicant respectfully requests withdrawal of the rejections.

Discussion of Claims Rejected Under 35 U.S.C. § 103(a)

Claims 1-21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Golightly, *et al.* (U.S. Patent Pub. No. 2003/0046130) in view of one or more of Sanders (U.S. Patent No. 6,574,605), Davies *et al.* (U.S. Patent Pub. No. 2003/0033191), and Buchan *et al.* (U.S. Patent No. 7,584,165). Golightly discusses a computerized system for operating an enterprise according to dynamic models. See Golightly Abstract.

Applicant respectfully submits that independent Claims 1, 11, and 21 have been canceled, and that dependent Claims 2-10 and 12-20 have been amended to depend from one of the new claims. Accordingly, Applicant respectfully submits that these rejections are moot.

Discussion of Patentability of the New Claims

Applicant respectfully submits that the cited art does not individually or collectively disclose the combination of elements recited in new Claim 22. For example, the cited art does not disclose a computer system, comprising: "at least one computer configured to: from one or more external sources, receive a stream of event data for at least one of the metrics, wherein the event data is transmitted to and received by the at least one computer independent of a request from the computer, in response to each received event data, calculate with the computer an actual value for at least one metric based at least in part on the event data, in response to each received event data, automatically calculate with the computer an expected value for the at least one metric, compare the expected value with the actual value, and determine whether to generate an alert or action based on the comparison of the expected value and the actual value."

Golightly discusses updating and optimizing decision models based on new data. See Golightly paragraph 77. However, Golightly and the other references are silent as to

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automatically calculating, in response to each received event data, an expected value for the at least one metric, and comparing the expected value with the actual value to determine whether to generate an alert or action.

Accordingly, at least for these reasons, Applicant respectfully submits that Claim 22 overcomes the cited art and is, therefore, in condition for allowance. In addition, Applicant respectfully submits that Claims 23 and 24 are also in condition for allowance at least because of reasons similar to those discussed above with regard to Claim 22. In addition, Applicant does not necessarily agree with the characterization and assessments of the art with respect to the dependent claims, and respectfully submits that the dependent claims are in condition for allowance at least because of the features they include from the independent claims from which they depend and because of their own features.

Conclusion

Applicant has endeavored to address all of the Examiner's concerns as expressed in the outstanding Office Action. In light of the above amendments and remarks, reconsideration and withdrawal of the outstanding rejections is respectfully requested. If the Examiner has any questions which may be answered by telephone, he is invited to call the undersigned directly.

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,
KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 10/27/10

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